

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

CLAUDE GENE LEE, SR.,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO: 1:06-CV-874-MHT
)	
WESTPOINT HOME, INC.,)	
)	
Defendant.)	

MOTION TO ALLOW FOR TARDY FILING OF EVIDENCE

COMES NOW the Plaintiff and files this motion to allow for the tardy filing of certain evidence, and would state the following in support.

1. That plaintiff had completed its brief and scanned all exhibits for filing on July 6, 2007. However, plaintiff encountered a number of problems with the e-file system. Due to the size of many of the exhibits, they could not be submitted as one document. Plaintiff was then forced to re-scan all of the exhibits to create smaller piecemeal documents. While scanning these items a second time, plaintiff's scanner malfunctioned. Plaintiff then had the items again re-scanned at KINKO's. Due to the confusion and the technical problems described, and although all exhibits and the brief were ready for filing on July 6, 2007, it appears that at least two exhibits, (Exhibit A-Pl's Affidavit) and (Exhibit H-Abbeville Production Weekly Reports), did not appear to be filed on July 6, 2007. As to Exhibit H, this document was submitted on July 6, 2007, but shows it being filed on July 7, 2007 at 12:01 a.m. As far as Exhibit A, Plaintiff

only discovered on July 7, 2007 that the e-file system did not report that this exhibit had been filed. As soon as this was realized, plaintiff immediately filed Exhibit A using equipment at another lawyer's office.

2. Plaintiff has also sent this Court and opposing counsel a complete copy of its brief and all exhibits by mail.

3. Allowing this filing will result in no prejudice to the defendant; however, if said exhibits are excluded, this would be extremely prejudicial to plaintiff.

4. Plaintiff would ask that this Court excuse this short delay accepting these two exhibits as timely filed, and any confusion caused by these piecemeal filings.

/s/ Jay E. Tidwell

Jay Tidwell (TID009)

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of July 2007, I have served a copy of the above and foregoing on counsel for all parties by:

_____ Facsimile transmission;

_____ Hand Delivery:

_____ Placing a copy of same in the United States Mail, properly addressed and first class postage prepaid to:

X

Using the CM/ECF system which will send notifications of
such to the following:

/s/ Jay E. Tidwell

Of Counsel